

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of

Preemption of State and Local Zoning and
Land Use Restrictions on the Siting,
Placement and Construction of Broadcast
Station Transmission Facilities

MM Docket No. 97-182

**REPLY COMMENTS OF
THE ASSOCIATION OF LOCAL TELEVISION STATIONS, INC.**

The Association of Local Television Stations, Inc. ("ALTV"), hereby submits the following reply comments in response to the Commission's *Notice of Proposed Rule Making* in the above-captioned proceeding.¹ ALTV previously has submitted comments in this proceeding.

In the face of the consternation and concerns reflected in the comments of many local governments, ALTV only wishes to make several points. They are offered not as bold new insights or stinging counterpoints to the arguments of local governments, but as transcendent observations designed to restore the Commission's focus to the forest instead of the trees.

First, this proceeding involves *broadcast* towers. Unlike cellular and PCS towers, broadcast towers adequate to serve a community create no pin cushion pattern of tower construction. In the vast majority of communities, several sites are adequate to accommodate the towers and antennas of all local broadcast stations. Moreover, local television stations can be expected to make every effort to co-locate their new digital facilities with their existing analog

¹FCC 97-296 (released August 19, 1997)[hereinafter cited as *Notice*].

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facilities. The Commission, indeed, has presumed for allotment purposes that stations will co-locate their digital and analog facilities. Some may be able to use the same tower or existing towers; others may have to build new towers at the same site. Thus, several towers may end up clustered at the site of the station's existing analog facility. In such circumstances, the impact of new towers would be marginal. Even if several local stations have to build new towers apart from their present analog facilities, only a few new sites would be involved. Therefore, with the advent of digital television, new broadcast towers will not clutter the landscape like new PCS or cellular towers.

Second, stations already operate under substantial constraints with respect to tower siting. Beyond the FCC's spacing requirements, stations also must select sites approved by the Federal Aviation Administration. In some communities, the need to satisfy minimum mileage separation requirements, provide city grade coverage over the community of license, and pose no hazard to air navigation (either via obstruction or radio interference) already places severe constraints on tower siting. The need to duplicate the entire broadcast service to permit an orderly transition to digital television compounds these problems. Unreasonable or dilatory actions by local authorities over the handful of sites actually usable by local television stations could thwart stations' best intentions to provide digital service to consumers with all the dispatch intended by the Commission.

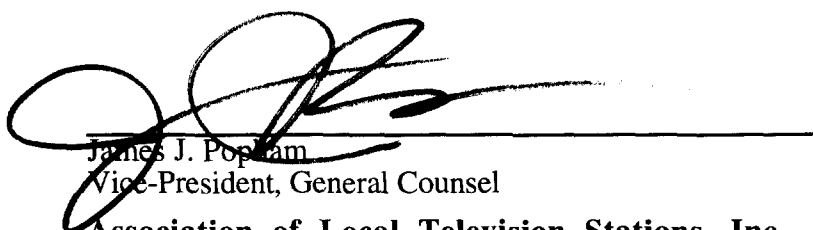
Third, in the case of digital television sites, stations also face tight deadlines for implementing service. Interminable jousts with local authorities would frustrate stations' abilities to comply with the Commission's timetables (or their voluntary commitments to meet stricter deadlines). They also would jeopardize the scheduled return of analog spectrum and the government interest in auctioning this potentially surplus spectrum as promptly as possible.

Fourth, the Commission is launching digital television on an uncertain sea. The transformation of digital television theory into day-to-day operation by hundreds of new facilities inevitably will encounter unexpected glitches. Consumer acceptance and willingness to purchase

initially expensive new digital receivers remains unproven and subject to many legitimate questions. Stations' abilities to develop and provide high definition programming or multiple channels of new digital programming remains to be seen. After all, digital television in the form of a second channel from every station in a local market only will increase audience fragmentation. Thus, stations are facing higher program costs with uncertain likelihood that *new* audiences will develop for such programming. Also uncertain is the critical question of must carry rights for local stations' new video facilities. If consumers are to decide whether digital television is an attractive service, they must have access to the signals. If cable systems are allowed to interdict digital broadcast signals on either a wholesale or selective basis, many new digital stations will falter out of the starting blocks, providing new, crisp, clear pictures, but only to the handful of television households which maintain receiving antennas adequate to receive new digital transmissions.

In view of the above, stations should not face the added uncertainty of protracted or arbitrary zoning and land use decisions.

Respectfully submitted,



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